IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

State of Rajasthan & Anr. v. Durga Ram & Anr.

S.B.CIVIL WRIT PETITION NO.1212/1993
under Article 226 of the Constitution of India.

Date of Order : 1st September, 2005

P R E S E N T
HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. Vijay Mehta, for the respondent.

BY THE COURT :

This writ petition is directed against the award dated 23.10.1992 passed by learned Labour Court, Jodhpur in Industrial Dispute Case NO.156/89, Durgaram v. Executive Engineer, PWD, Sirohi. The Labour Court, Jodhpur by award impugned while holding that retrenchment of workman Durgaram was not just and proper declared him entitled for reinstatement in service with consolidated back wages of Rs.10,000/-.

The contention of counsel for the State while giving challenge to the award dated 23.10.1992 is that the workman was working in a scheme named as RLEGP which was framed under the Famine Relief Work,

therefore, by force of Rajasthan Famine Relief Work Employees (Exemption from Industrial Laws) Act, 1964 (hereinafter referred to as “the Act of 1964”), application of Industrial Disputes Act is excluded. It is further contended that the award impugned dated 23.10.1992 deserves to be quashed as the industrial dispute referred for adjudication itself is vague for the reason that it does not prescribe any date of alleged retrenchment.

Heard counsel for the parties.

I do not find any force in the first contention of counsel for the petitioners that the workman was working under Famine Relief Work and, therefore, the application of Industrial Disputes Act was exempted. The court below adjudicated this question and reached at the conclusion that while making appointment of the workman and while terminating him from service it was never disclosed that he was working in Famine Relief Work. In fact there is no factual foundation in this regard. It is also pertinent to note that an exemption under the Act of 1964 can be ordered only by a notification issued by the Government. There is no automatic exemption of applicability of provisions of the Act of 1964. In the present case no such notification is shown or even referred by the petitioner employer.

The next contention of counsel for State is that the industrial dispute itself is vague is also of no consequence. The workman in his statement of claim in quite unambiguous terms stated that he was not allowed to work on or after 16.12.1987. A written to the statement of claim was filed on behalf of the employer in which the fact above was not denied. In the present petition also it is mentioned by the State that the workman was removed from service in the month of November, 1987. It is also pertinent to note that the contention raised by the State that the dispute itself is vague was never raised before the Labour Court or even in present writ petition, as such now it is not permissible to raise this contention first time at the stage of hearing.

In view of whatever discussed above I do not find any force in the petition. The award impugned does not suffer from any error warranting interference of this Court under Article 226 and 227 of the Constitution of India. The writ petition, therefore, stands dismissed.

(GOVIND MATHUR),J.

kkm/ps.